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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,935	01/22/2004	Jean E.F. Rivier	73933/5193	5057
22342 7590 05/15/2008 FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406				
EXAMINER				
HEARD, THOMAS SWEENEY				
ART UNIT		PAPER NUMBER		
1654				
MAIL DATE		DELIVERY MODE		
05/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/763,935

Applicant(s)

RIVIER ET AL.

Examiner

THOMAS S. HEARD

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/1/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3.5-7 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3.5-7 and 11-15 is/are rejected.
- 7) ☒ Claim(s) 3.5-7 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S5108)
Paper No(s)/Mail Date 03/14/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/1/2008 has been entered.

The Applicants Amendments to the claims received on 4/1/2008 is acknowledged. The text of those sections of Title 35 U.S. Code not included in the action can be found in the prior office action. Rejections or objections not addressed in this office action with respect to the previous office action mailed 1/3/2008 are hereby withdrawn.

Claim(s) 3, 5-7, 11-15 are pending. Applicants have amended claim(s) 3, 5-7, 11-14 and added Claim 15. Claims 3, 5-7, 11-15 are hereby examined on the merits.

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next

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following the highest numbered claims previously presented (whether entered or not).

Claims must refer back to a lower number claims.

Claims 3, 5-7 and 12 refer to a higher number claims, i.e., Claim 15. Correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 5-7, 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants are claiming a peptide that is described by (cyclo 31-34). Peptide nomenclature reads N-terminus to C-terminus, left to right and the first amino acid is designated position 1, see § 1.821 (d) (4), where it is stated:

The enumeration of amino acids may start at the first amino acid of the first mature protein, with the number 1. When presented, the amino acids preceding the mature protein, e.g., pre-sequences, pro-sequences, pre-pro-sequences and signal sequences, shall have negative numbers, counting backwards starting with the amino acid next to number 1. Otherwise, the enumeration of amino acids shall start at the first amino acid at the amino terminal as number 1. It shall be marked below the sequence every 5 amino acids. The enumeration method for amino acid sequences that is set forth in this section remains applicable for amino acid sequences that are circular in configuration, with the exception that the designation of the first amino acid of the sequence may be made at the option of the applicant.

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The current peptide sequences are not conforming to standard peptide nomenclature and are using R values to determine position.

Conclusion

No claims are allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art contained in the reference of record can be applied in the next office action.

Applicant should specifically point out the support for any amendments made to the disclosure, including the claims (MPEP 714.02 and 2163.06). Due to the procedure outlined in MPEP § 2163.06 for interpreting claims, it is noted that other art may be applicable under 35 U.S.C. § 102 or 35 U.S.C. § 103(a) once the aforementioned issue(s) is/are addressed.

Applicant is requested to provide a list of all copending applications that set forth similar subject matter to the present claims. A copy of such copending claims is requested in response to this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas S. Heard whose telephone number is (571) 272-2064. The examiner can normally be reached on 9:00 a.m. to 6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on (571) 272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas S Heard/
Examiner, Art Unit 1654
United States Patent and Trade Office
Remsen 3B21

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/Cecilia Tsang/

Supervisory Patent Examiner, Art Unit 1654